

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION
SIXTY-FIRST LEGISLATURE

SIXTY-FOURTH LEGISLATIVE DAY
MONDAY, MARCH 12, 2012

Senate Chamber

President Little called the Senate to order at 10 a.m.

Roll call showed all members present except Senator Andreason, absent and formally excused by the Chair; and Senators Brackett, Cameron, Corder, Fulcher, Lodge, and Pearce, absent and excused.

Prayer was offered by Chaplain Keith Buhler.

The Pledge of Allegiance was led by Daniel Kelley, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 9, 2012, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

Senators Corder and Fulcher were recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

Senator Pearce was recorded present at this order of business.

SCR 131

BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ENCOURAGING THE IDAHO DEPARTMENT OF HEALTH AND WELFARE TO CONDUCT TOWN HALL MEETINGS THROUGHOUT THE STATE TO GATHER FEEDBACK ON HOW TO RETAIN AND RECRUIT VOLUNTEER EMERGENCY MEDICAL SERVICES PROVIDERS.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, Idaho is predominantly a rural state that relies heavily on volunteers for the provision of emergency medical services; and

WHEREAS, the existence of competent volunteer emergency medical services providers throughout Idaho is vital to the well-being of all those who live in or visit Idaho; and

WHEREAS, the requirements placed on volunteer emergency medical services providers must provide an assurance of public safety while not being onerous to a point so as to discourage volunteer participation.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that we encourage the Idaho Department of Health and Welfare to conduct outreach town hall meetings throughout Idaho to develop a better understanding of the challenges that hinder recruitment and retention of volunteer emergency medical services providers.

BE IT FURTHER RESOLVED that the Department should schedule the town hall meetings in the evening hours to enable maximum participation by concerned stakeholders and should hold the town hall meetings in locations that will enable concerned stakeholders to attend without having to drive any farther than 50 miles whenever possible.

BE IT FURTHER RESOLVED that the Department should facilitate the town hall meetings in such a manner so as to gather as much feedback and suggestions for improvement as possible and should consider the feedback received during the town hall meetings as they continue to develop the programs, policies, plans and procedures that support and regulate emergency medical services in Idaho.

[SCR 131](#) was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

March 9, 2012

Dear Mr. President:

I transmit herewith [H 637](#), [H 487](#), [H 566](#), as amended, [H 573](#), as amended, [H 641](#), [H 642](#), [H 643](#), [H 644](#), and [H 607](#), which have passed the House.

ALEXANDER, Chief Clerk

[H 637](#), [H 487](#), [H 566](#), as amended, [H 573](#), as amended, [H 641](#), [H 642](#), [H 643](#), [H 644](#), and [H 607](#) were filed for first reading.

March 9, 2012

Dear Mr. President:

I return herewith [S 1371](#), which has passed the House.

ALEXANDER, Chief Clerk

[S 1371](#) was referred to the Judiciary and Rules Committee for enrolling.

March 9, 2012

Dear Mr. President:

I return herewith Enrolled [S 1333](#), which has been signed by the Speaker.

ALEXANDER, Chief Clerk

Enrolled [S 1333](#) was referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

Reports of Standing Committees

March 9, 2012

The STATE AFFAIRS Committee reports out [H 490](#) and [S 1373](#) with the recommendation that they do pass.

MCKENZIE, Chairman

[H 490](#) and [S 1373](#) were filed for second reading.

Senator Lodge was recorded present at this order of business.

March 9, 2012

The STATE AFFAIRS Committee reports out [S 1362](#) with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

MCKENZIE, Chairman

There being no objection, [S 1362](#) was referred to the Fourteenth Order of Business, General Calendar.

March 12, 2012

The FINANCE Committee reports out [H 636](#), [H 638](#), and [S 1384](#) with the recommendation that they do pass.

CAMERON, Chairman

[H 636](#), [H 638](#), and [S 1384](#) were filed for second reading.

March 12, 2012

The JUDICIARY AND RULES Committee reports that [S 1371](#) has been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled [S 1371](#) and ordered it transmitted to the House for the signature of the Speaker.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Tenth Order of Business.

Motions and Resolutions

Senator Cameron was recorded present at this order of business.

At this time Senator Davis arose on a point of personal privilege to announce that a distinguished visitor had arrived, and the President appointed Senator Keough, Chairman and Senators Rice, and Bilyeu to escort The Honorable James E. Risch, into the Senate Chamber where he addressed the members of the Senate.

The President thanked Senator Risch for his remarks and Senators Keough, Rice, and Bilyeu escorted him from the Chamber, and the Committee was discharged.

The President announced that [HCR 39](#) was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Mortimer, seconded by Senator Werk, [HCR 39](#) was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

The President announced that [SCR 130](#) was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Bilyeu, seconded by Senator Malepeai, [SCR 130](#) was adopted by voice vote, title was approved, and the resolution ordered transmitted to the House.

The President announced that [HCR 48](#) was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Malepeai, seconded by Senator Goedde, [HCR 48](#) was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

Reports of Standing Committees

March 12, 2012

The STATE AFFAIRS Committee reports out [H 450](#) and [S 1348](#) with the recommendation that they be referred to the Fourteenth Order of Business for amendment.

MCKENZIE, Chairman

There being no objection, [H 450](#) and [S 1348](#) were referred to the Fourteenth Order of Business, General Calendar.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

March 12, 2012

Dear Mr. President:

I return herewith Enrolled [S 1371](#), which has been signed by the Speaker.

ALEXANDER, Chief Clerk

Enrolled [S 1371](#) was referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1386

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE MILITARY DIVISION AND THE IDAHO DIRECTORATE OF CIVIL AIR PATROL; AMENDING CHAPTER 71, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-7114A, IDAHO CODE, TO ESTABLISH THE IDAHO DIRECTORATE OF CIVIL AIR PATROL, TO PROVIDE FOR A MISSION OF THE DIRECTORATE AND TO PROVIDE FOR CERTAIN IN-KIND SERVICES.

S 1387
BY STATE AFFAIRS COMMITTEE
AN ACT

RELATING TO ABORTION; AMENDING SECTION 18-609, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO CERTAIN MATERIALS MADE AVAILABLE TO PHYSICIANS, HOSPITALS OR OTHER FACILITIES PROVIDING ABORTION AND ABORTION-RELATED SERVICES, TO ESTABLISH PROVISIONS RELATING TO A LIST OF HEALTH CARE PROVIDERS, FACILITIES AND CLINICS THAT OFFER TO PERFORM CERTAIN ULTRASOUNDS, TO ESTABLISH PROVISIONS RELATING TO A STATEMENT REGARDING CERTAIN ULTRASOUND IMAGING AND HEART TONE MONITORING, TO ESTABLISH PROVISIONS THAT PRIOR TO INFORMED CONSENT GIVEN BY THE PATIENT AND PRIOR TO THE ADMINISTRATION OF ANESTHESIA OR CERTAIN MEDICATIONS, THE PHYSICIAN WHO IS TO PERFORM THE ABORTION OR A QUALIFIED TECHNICIAN SHALL PERFORM AN OBSTETRIC ULTRASOUND, TO REVISE PROVISIONS RELATING TO INFORMING THE PATIENT SHE HAS THE RIGHT TO VIEW CERTAIN ULTRASOUND IMAGES, TO PROVIDE THAT THE PHYSICIAN WHO IS TO PERFORM THE ABORTION OR AN AGENT OF THE PHYSICIAN SHALL SIGN AND DATE A CERTAIN STATEMENT, TO PROVIDE LANGUAGE THAT READS SUBSTANTIALLY AS A CERTAIN STATEMENT SHOULD READ, TO PROVIDE THAT THE PATIENT SHALL INITIAL, SIGN AND DATE THE STATEMENT, TO ESTABLISH PROVISIONS RELATING TO THE PRINT OF THE STATEMENT, TO ESTABLISH PROVISIONS LIMITING MATERIAL INCLUDED IN THE STATEMENT, TO PROVIDE FOR A COPY OF THE STATEMENT, TO PROVIDE FOR A SIGNATURE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AND PROVIDING SEVERABILITY.

[S 1386](#) and [S 1387](#) were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

[H 637](#), [H 641](#), [H 642](#), [H 643](#), and [H 644](#), by Appropriations Committee, were introduced, read the first time at length, and referred to the Finance Committee.

[H 487](#), by Health and Welfare Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

[H 566](#), as amended, by Education Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

[H 573](#), as amended, by Education Committee, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

[H 607](#), by State Affairs Committee, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

[H 503](#), by Health and Welfare Committee, was read the second time at length and filed for third reading.

[H 558](#), by Revenue and Taxation Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

[S 1336](#), as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McKenzie arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Bilyeu, Bock, Broadsword, Cameron, Corder, Darrington, Davis, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Malepeai, McKague, McKenzie, Schmidt, Stennett, Tippets, Toryanski, Vick, Werk, Winder. Total - 23.

NAYS—Bair, Fulcher, Goedde, Lodge, Mortimer, Nuxoll, Pearce, Rice, Siddoway, Smyser. Total - 10.

Absent and excused—Andreason, Brackett. Total - 2.

Total - 35.

Whereupon the President declared [S 1336](#), as amended, passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

General Calendar

The President declared the Senate resolved into the Committee of the Whole and called Senator Winder to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President called the Senate to order.

Report of the Committee of the Whole

Senator Winder, Chairman of the Committee of the Whole, reported out [S 1357](#), [S 1295](#), [H 497](#), [S 1339](#), [H 457](#), [S 1358](#), [H 511](#), as amended, [S 1362](#), and [H 450](#), without recommendation, amended as follows:

SENATE AMENDMENT TO S 1357

AMENDMENT TO THE BILL

On page 1 of the printed bill, delete lines 7 through 28, and insert:

"SECTION 1. That Section 63-1014, Idaho Code, be, and the same is hereby amended to read as follows:

63-1014. REMOVAL OR SALE OR REPOSSESSION OF PERSONAL PROPERTY BEFORE PAYMENT OF PROPERTY TAXES ON PROPERTY ROLLS. (1) Whenever any person, firm or corporation owning any personal property shall desire to remove the personal property from the county or sell or repossess the property before all property taxes due and payable including the current year's taxes have been paid upon the personal property, the property taxes shall be paid to the tax collector upon demand and before the removal of the property from the county. It shall be the duty of the tax collector to collect the property taxes provided for in this section, and all the provisions of this chapter are hereby made available to the tax collector in the collection of such taxes.

(a) If a person holding a purchase money security interest desires to repossess and sell a specific piece of personal property and the market value of that personal property exceeds twenty thousand dollars (\$20,000), that person shall provide to the tax collector a request to segregate that specific piece of personal property from the personal property tax parcel. The person holding the purchase money security interest shall provide a copy of the purchase money security interest agreement with the request for segregation.

(b) The county assessor shall determine and provide to the tax collector the market value for assessment purposes of that segregated portion of personal property. The tax collector shall calculate property tax to be paid for any delinquencies, including late charges, accrued interest, costs incurred and the estimated taxes for the current year relating to that segregated portion of personal property.

(c) The person holding the purchase money security interest shall pay all personal property taxes owed, including late charges, accrued interest and costs incurred on the specific segregated personal property to the tax collector before taking possession of the personal property or selling the property.

(d) The segregation of specific personal property from the personal property tax parcel shall not affect the priority of the tax lien on the remaining personal property items in the parcel.

(2) It shall be a misdemeanor for any person, firm or corporation to move from the county or sell or repossess any personal property or manufactured home without the payment of the current year's property taxes or without paying property taxes due and owing, and upon conviction the person, firm or corporation shall, in addition to any penalty which the court may impose, pay to the tax collector a sum not in excess of double the amount of property tax which was collectible on the property removed or sold or repossessed, together with all costs and late charges provided for in this chapter. The excess sum shall be collected by the tax collector in the same manner as the original property tax."

CORRECTION TO TITLE

On page 1, delete lines 2 through 5, and insert:

"RELATING TO PROPERTY TAXES; AMENDING SECTION 63-1014, IDAHO CODE, TO PROVIDE A PROCEDURE RELATING TO THE SEGREGATION OF CERTAIN PERSONAL PROPERTY FOR PERSONS HOLDING PURCHASE MONEY SECURITY INTERESTS IN THE PROPERTY WHO DESIRE TO REPOSSESS AND SELL THE PROPERTY, TO PROVIDE PROCEDURES FOR COUNTY ASSESSORS AND TAX COLLECTORS, TO PROVIDE FOR THE PAYMENT OF PERSONAL PROPERTY TAXES OWED AND TO PROVIDE THAT SEGREGATION OF SPECIFIC PERSONAL PROPERTY SHALL NOT AFFECT THE PRIORITY OF THE TAX LIEN ON THE REMAINING PERSONAL PROPERTY ITEMS IN THE PARCEL."

SENATE AMENDMENT TO S 1295

AMENDMENT TO SECTION 1

On page 2 of the printed bill, delete lines 34 through 39; and in line 40, delete "(f)" and insert: "(d)".

On page 3, in line 1, delete "(g)" and insert: "(e)"; in line 4, delete "(h)" and insert: "(f)"; in line 12, delete "(i)" and insert: "(g)"; and in line 31, following "practice" insert: "massage therapy for compensation".

SENATE AMENDMENT TO H 497

AMENDMENT TO SECTION 1

On page 2 of the printed bill, in line 15, delete "currently"; and in line 20, following "performed" insert: ". For the purposes of this subsection, "validated" means the accumulation of test data within the laboratory to demonstrate that established methods and procedures perform as expected in the laboratory".

SENATE AMENDMENT TO S 1339

AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 15, following "or" insert: "physically"; in line 17, following "Disclosure," insert: "physical"; in line 21, following "disclosure," insert: "physical"; in line 22, following "or" insert: "physical"; in line 32, following "or" insert: "physically"; and on page 2, following line 14, insert:

"(6) "Physical retention" and "physical possession" means to keep, save, hold or preserve beyond mere mental memorization or knowledge, but shall include, and not be limited to, electronic means of preservation."

AMENDMENT TO SECTION 2

On page 2, in line 17, delete "Trade secret misappropriation, once proven,"; delete line 18; in line 19, delete "the misappropriation."; and delete lines 37 through 42, and insert:

"(4) Any party named in litigation under this chapter who acts with knowledge of the misappropriation of a trade secret, or with deliberate or reckless disregard of the facts of a misappropriation, shall be jointly and severally liable for all damages established under this section where the parties were acting in concert. As used in this section, "acting in concert" means pursuing a common plan or design that results in a violation of this act."

CORRECTION TO TITLE

On page 1, in line 3, following "DEFINITIONS" insert: "AND TO DEFINE A TERM".

SENATE AMENDMENT TO H 457

AMENDMENT TO SECTION 1

On page 2 of the printed bill, in line 6, delete "a" and insert: "his or her".

SENATE AMENDMENT TO S 1358

AMENDMENT TO THE BILL

On page 1 of the printed bill, delete lines 12 through 42; and delete pages 2, 3, 4, 5 and 6 and insert:

"SECTION 1. That Section 18-917A, Idaho Code, be, and the same is hereby amended to read as follows:

18-917A. STUDENT HARASSMENT – INTIMIDATION – BULLYING. (1) No student and no minor present on school property, in a school vehicle or at school activities, regardless of location, shall intentionally commit, or conspire to commit, an act of harassment, intimidation, or bullying or cyberbullying against another student.

(2) As used in this section, "harassment, intimidation or bullying" means any intentional gesture, or any intentional written, verbal or physical act or threat by a student that:

(a) A reasonable person under the circumstances should know will have the effect of:

- (i) Harming a student; or
- (ii) Damaging a student's property; or
- (iii) Placing a student in reasonable fear of harm to his or her person; or
- (iv) Placing a student in reasonable fear of damage to his or her property; ~~or~~ and

(b) Is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or abusive educational environment for a student.

~~An act of harassment, intimidation or bullying may also be committed through the use of a land line, car phone or wireless telephone or through the use of data or computer software that is accessed through a computer, computer system, or computer network.~~

(3) "Cyberbullying" is an act of harassment, intimidation or bullying committed through the use of a landline, car phone or wireless telephone, or through the use of data or computer software that is accessed through a computer system or computer network, which is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or abusive educational environment for a student.

~~(4) A student who personally violates violation of any provision of this section may shall be guilty of an infraction.~~

SECTION 2. That Section 33-512, Idaho Code, be, and the same is hereby amended to read as follows:

33-512. GOVERNANCE OF SCHOOLS. The board of trustees of each school district shall have the following powers and duties:

(1) To fix the days of the year and the hours of the day when schools shall be in session. However:

(a) Each school district shall annually adopt and implement a school calendar which provides its students at each grade level with the following minimum number of instructional hours:

Grades	Hours
9-12	990
4-8	900
1-3	810
K	450

(b) School assemblies, testing and other instructionally related activities involving students directly may be included in the required instructional hours.

(c) When approved by a local school board, annual instructional hour requirements stated in paragraph (a) may be reduced as follows:

- (i) Up to a total of twenty-two (22) hours to accommodate staff development activities conducted on such days as the local school board deems appropriate.
- (ii) Up to a total of eleven (11) hours of emergency school closures due to adverse weather conditions and facility failures.

However, transportation to and from school, passing times between classes, recess and lunch periods shall not be included.

(d) Student and staff activities related to the opening and closing of the school year, grade reporting, program planning, staff meetings, and other classroom and building management activities shall not be counted as instructional time or in the reductions provided in paragraph (c)(i) of this section.

(e) For multiple shift programs, this rule applies to each shift (i.e., each student must have access to the minimum annual required hours of instructions).

(f) The instructional time requirement for grade 12 students may be reduced by action of a local school board for an amount of time not to exceed eleven (11) hours of instructional time.

(g) The state superintendent of public instruction may grant an exemption from the provisions of this section for an individual building within a district, when the closure of that building, for unforeseen circumstances, does not affect the attendance of other buildings within the district.

(2) To adopt and carry on, and provide for the financing of, a total educational program for the district. Such programs in other than elementary school districts may include education programs for out-of-school youth and adults; and such districts may provide classes in kindergarten;

(3) To provide, or require pupils to be provided with, suitable textbooks and supplies, and for advice on textbook selections may appoint a ~~textbook~~ curricular materials adoption committee as provided in section 33-512A, Idaho Code;

(4) To protect the morals and health of the pupils;

(5) To exclude from school, children not of school age;

(6) To prescribe rules for the disciplining of unruly or insubordinate pupils, including rules on student harassment, intimidation, ~~and bullying and cyberbullying as defined in section 18-917A, Idaho Code,~~ such rules to be included in a district discipline code adopted by the board of trustees and a summarized version thereof to be provided in writing at the beginning of each school year through means including, but not limited to, student handbooks, district or school websites, ~~and existing communications to the teachers school personnel,~~ parents and students in the district in a manner consistent with the student's age, grade and level of academic achievement;

(a) The district's policy against harassment, intimidation, bullying and cyberbullying shall include a provision affirming that school personnel shall intervene or facilitate intervention on behalf of students facing harassment, intimidation, bullying or cyberbullying in the school setting or when such act negatively impacts the student's educational environment, shall specifically designate persons to whom reports are to be made and shall include the procedure for school personnel, students, parents/legal guardians or other personnel to report harassment, intimidation, bullying or cyberbullying events or information.

(b) The board, through the school's administration, shall provide annual professional development on the issue of harassment, intimidation, bullying and cyberbullying consistent with section 33-1208B, Idaho Code. Training shall also be provided to noncertificated personnel consistent with employee levels of student interaction.

(c) The board's discipline policies relating to harassment, intimidation, bullying and cyberbullying shall include a series of graduated consequences including, but not limited to, parental notification, providing parents with a referral of the student to group or individual counseling, suspension and expulsion of the student and the possibility of reporting of criminal activity to local law enforcement authorities.

(7) To exclude from school, pupils with contagious or infectious diseases who are diagnosed or suspected as having a contagious or infectious disease or those who are not immune and have been exposed to a contagious or infectious disease; and to close school on order of the state board of health and welfare or local health authorities;

(8) To equip and maintain a suitable library or libraries in the school or schools and to exclude therefrom, and from the schools, all books, tracts, papers, and catechisms of sectarian nature;

(9) To determine school holidays. Any listing of school holidays shall include not less than the following: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, and Christmas Day. Other days listed in section 73-108, Idaho Code, if the same shall fall on a school day, shall be observed with

appropriate ceremonies; and any days the state board of education may designate, following the proclamation by the governor, shall be school holidays;

(10) To erect and maintain on each schoolhouse or school grounds a suitable flagstaff or flagpole, and display thereon the flag of the United States of America on all days, except during inclement weather, when the school is in session; and for each Veterans Day, each school in session shall conduct and observe an appropriate program of at least one (1) class period remembering and honoring American veterans;

(11) To prohibit entrance to each schoolhouse or school grounds, to prohibit loitering in schoolhouses or on school grounds and to provide for the removal from each schoolhouse or school grounds of any individual or individuals who disrupt the educational processes or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils. A person who disrupts the educational process or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils or who loiters in schoolhouses or on school grounds, is guilty of a misdemeanor;

(12) To supervise and regulate, including by contract with established entities, those extracurricular activities which are by definition outside of or in addition to the regular academic courses or curriculum of a public school, and which extracurricular activities shall not be considered to be a property, liberty or contract right of any student, and such extracurricular activities shall not be deemed a necessary element of a public school education, but shall be considered to be a privilege;

(13) To govern the school district in compliance with state law and rules of the state board of education;

(14) To submit to the superintendent of public instruction not later than July 1 of each year documentation which meets the reporting requirements of the federal gun-free schools act of 1994 as contained within the federal improving America's schools act of 1994;

(15) To require that all certificated and noncertificated employees hired on or after July 1, 2008, and other individuals who are required by the provisions of section 33-130, Idaho Code, to undergo a criminal history check shall submit a completed ten (10) finger fingerprint card or scan to the department of education no later than five (5) days following the first day of employment or unsupervised contact with students in a K-12 setting, whichever is sooner. Such employees and other individuals shall pay the cost of the criminal history check. If the criminal history check shows that the employee has been convicted of a felony crime enumerated in section 33-1208, Idaho Code, it shall be grounds for immediate termination, dismissal or other personnel action of the district, except that it shall be the right of the school district to evaluate whether an individual convicted of one (1) of these crimes and having been incarcerated for that crime shall be hired. Provided however, that any individual convicted of any felony offense listed in section 33-1208 2., Idaho Code, shall not be hired. For the purposes of criminal history checks, a substitute teacher is any individual who temporarily replaces a certificated classroom educator and is paid a substitute teacher wage for one (1) day or more during a school year. A substitute teacher who has undergone a criminal history check at the request of one (1) district in which he has been employed as a substitute shall not be required to undergo an additional criminal history check at the request of any other district in which he is employed as a substitute if the teacher has obtained a criminal history check within the previous five (5) years. If the district next employing the substitute still elects to require another criminal history check within the five (5) year period, that district shall pay the cost of the criminal history check or reimburse the substitute teacher for such cost. To remain

on the statewide substitute teacher list maintained by the state department of education, the substitute teacher shall undergo a criminal history check every five (5) years;

(16) To maintain a safe environment for students by developing a system that cross-checks all contractors or other persons who have irregular contact with students against the statewide sex offender register;

(17) To provide support for teachers in their first two (2) years in the profession in the areas of: administrative and supervisory support, mentoring, peer assistance and professional development.

SECTION 3. That Chapter 12, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1208B, Idaho Code, and to read as follows:

33-1208B. CERTIFICATED PERSONNEL OBLIGATIONS FOR HARASSMENT, INTIMIDATION, BULLYING AND CYBERBULLYING INFORMATION AND PROFESSIONAL DEVELOPMENT. For the purposes of this section the terms "harassment, intimidation or bullying" and "cyberbullying" are as defined in section 18-917A, Idaho Code.

(1) In addition to board requirements to distribute information to students, reasonable efforts shall be made annually to distribute to parents and school staff the harassment, intimidation, bullying and cyberbullying policies and procedures enacted by school district or charter school boards pursuant to section 33-512(6), Idaho Code.

(2) School personnel shall intervene or facilitate intervention on behalf of students facing harassment, intimidation, bullying or cyberbullying in the school setting or when such acts negatively impact upon the student's educational environment. School principals or heads of schools, in coordination with other certificated personnel, shall annually review the school's policies and procedures on harassment, intimidation, bullying and cyberbullying and are responsible for the effective implementation of the policy.

(3) Certificated school personnel shall have completed a district-provided, evidence-based professional development training to build skills to prevent, identify and respond to harassment, intimidation, bullying and cyberbullying or may show proof of completion of approved anti-bullying professional development training that meets the requirements of the local district.

(4) Certificated school personnel shall report all cases that meet the definition of harassment, intimidation, bullying and cyberbullying to the school's administrative personnel to facilitate annual reporting requirements as well as to facilitate intervention on behalf of the student. The certificated employee's reporting shall include a statement of the action taken by the certificated employee to intervene or facilitate intervention on behalf of the student. The school's superintendent or head of schools for a charter school shall annually report incidents of harassment, intimidation, bullying and cyberbullying to the state department of education.

(5) Nothing contained herein shall require schools to staff any nonschool related activities, functions or programs.

(6) Sources for model anti-bullying policies, professional development and skill training and guidelines for annual reporting of material incidents to the state department of education shall be set forth in rules promulgated by the state board of education.

(7) The provisions of this section shall not apply to home school settings.

(8) Nothing in this section shall supersede or replace existing rights or remedies under any other general or special law, nor shall this section create a private right of action."

CORRECTION TO TITLE

On page 1, delete lines 2 through 10, and insert:
 "RELATING TO BULLYING; AMENDING SECTION 18-917A, IDAHO CODE, TO PROVIDE APPLICATION OF THE SECTION TO ADDITIONAL BEHAVIOR, TO DEFINE A TERM, TO REVISE WHAT ACTION SHALL BE AN INFRACTION AND TO REPLACE DISCRETIONARY LANGUAGE WITH MANDATORY LANGUAGE; AMENDING SECTION 33-512, IDAHO CODE, TO PROVIDE ADDITIONAL DUTIES REGARDING GOVERNANCE OF SCHOOLS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 12, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1208B, IDAHO CODE, TO PROVIDE CERTIFICATED PERSONNEL OBLIGATIONS FOR HARASSMENT, INTIMIDATION, BULLYING AND CYBERBULLYING INFORMATION AND PROFESSIONAL DEVELOPMENT AND TO PROVIDE EXCEPTIONS."

SENATE AMENDMENT TO H 511, As Amended AMENDMENT TO SECTION 1

On page 2 of the engrossed bill, in line 11, following "Code" insert: ", or any structure the primary purpose of which is to support telecommunications equipment".

SENATE AMENDMENT TO S 1362

AMENDMENT TO SECTION 1

On page 1 of the printed bill, delete lines 12 through 15.

AMENDMENT TO SECTION 2

On page 2, in line 4, following "scope of" delete "the" and insert: "an"; and in line 17, delete "may" and insert "will".

SENATE AMENDMENT TO H 450

AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 25, delete "Moneys in the fund may be ex-"; in line 26, delete "pended pursuant to legislative appropriation" and insert: "Expenditures of moneys in the fund shall be subject to legislative appropriation"; and in line 30, delete "the current" and insert: "that".

The Committee also has [H 426](#) and [H 464](#) under consideration, reports progress, and begs leave to sit again.

WINDER, Chairman

On motion by Senator Winder, seconded by Senator Stennett, the report was adopted by voice vote.

[S 1357](#), as amended, [S 1295](#), as amended, [S 1339](#), as amended, [S 1358](#), as amended, and [S 1362](#), as amended, were referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

[H 497](#), as amended in the Senate, [H 457](#), as amended in the Senate, [H 511](#), as amended, as amended in the Senate, and [H 450](#), as amended in the Senate, were filed for first reading as amended, and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

Moved by Senator Malepeai, seconded by Bock that the Senate adjourn, pursuant to Senate Rule 28(C). The question being, "Shall the motion prevail?"

The Chair being in doubt, the Secretary called the roll.

Roll call resulted as follows:

AYES—Bilyeu, Bock, Broadsword, Cameron, Corder, Keough, LeFavour, Malepeai, Schmidt, Stennett, Werk. Total - 11.

NAYS—Bair, Darrington, Davis, Fulcher, Goedde, Hammond, Heider, Hill, Johnson, Lodge, McKague, McKenzie, Mortimer, Nuxoll, Pearce, Rice, Siddoway, Smyser, Tippets, Toryanski, Vick, Winder. Total - 22.

Absent and excused—Andreason, Brackett. Total - 2.

Total - 35.

Whereupon the President declared that the motion had failed.

Moved by Senator Pearce, seconded by Senator Siddoway, that [H 464](#) be returned to the Thirteenth Order of Business, Third Reading of Bills. The question being, "Shall the motion prevail?"

Roll call vote was requested by Senator Bock. Senators Bilyeu, Keough, LeFavour, Schmidt and Stennett stood in support of the roll call request.

Roll call resulted as follows:

AYES—Bair, Fulcher, Goedde, Hammond, Heider, Hill, Lodge, McKague, McKenzie, Mortimer, Nuxoll, Pearce, Rice, Siddoway, Smyser, Tippets, Vick, Winder. Total - 18.

NAYS—Bilyeu, Bock, Broadsword, Cameron, Corder, Darrington, Davis, Johnson, Keough, LeFavour, Malepeai, Schmidt, Stennett, Toryanski, Werk. Total - 15.

Absent and excused—Andreason, Brackett. Total - 2.

Total - 35.

Whereupon the President declared that the motion had prevailed and [H 464](#) was returned to the Thirteenth Order of Business, Third Reading of Bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Malepeai, by voice vote, the Senate adjourned at 12:40 p.m. until the hour of 9 a.m., Tuesday, March 13, 2012.

BRAD LITTLE, President

Attest: JENNIFER NOVAK, Secretary